IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

OP.No. 24495 of 1999(N)

PETITIONER:

C.C.VARGHESE,
CHEKKAYIL HOUSE,
POONTHOPPU WARD,
ALAPPUZHA – 6.

BY ADV. I.SHEELADEVI

RESPONDENTS:
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1. **REGISTRAR OF CO-OPERATIVE SOCIETIES, THIRUVANANTHAPURAM.**

2. **ALAPPUZHA DISTRICT CO-OPERATIVE BANK LTD., REPRESENTED BY ITS GENERAL MANAGER, ALAPPUZHA.**

3. **STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT, DEPARTMENT OF CO-OPERATION, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.**

R2(BY ADV. SRI.P.C.SASIDHARAN
(SRI.P.K.VIJAYAMOHANAN

R1 & R3 BY GOVERNMENT PLEADER SMT. M.K.PUSHPALATHA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 03/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

ORDER ON C.M.P.NO.41177/1999 IN O.P.NO.24495/1999 N

DISMISSED

3/12/2007 **SD/- THOTTATHIL B.RADHAKRISHNAN,JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE MEMORANDUM OF SETTLEMENT DTD. 28/04/1966 BETWEEN BANK MANAGEMENT AND WORKMEN.**

EXT.P2: **COPY OF THE MEMORANDUM OF SETTLEMENT DTD. 6/02/1968 BETWEEN BANK MANAGEMENT AND WORKMEN.**

EXT.P3: **COPY OF THE BIPARTITE SETTLEMENT DTD. 23/06/1975 BETWEEN THE BANK MANAGEMENT AND THE UNION OF THE WORKMEN.**

EXT.P4: **COPY OF THE CIRCULAR DTD. 26/09/1975 ISSUED BY THE BANK MANAGEMENT.**

EXT.P5: **COPY OF THE ORDER NO.EM/(1)31488/91 DTD. 19/06/1993 OF THE 1ST RESPONDENT.**

EXT.P6: **COPY OF THE JUDGMENT IN O.P.NO.9977/1993-K DTD. 20/7/1998 OF THE HON.HIGH COURT.**

EXT.P7: **COPY OF THE ORDER DTD. 3/11/98 IN CMP.NO.37372/98 IN O.P.NO.9977/93 OF THE HON.HIGH COURT.**

EXT.P8: **COPY OF THE MEMORANDUM OF APPEAL DTD. 23/10/1998 SUBMITTED BY THE PETITIONER BEFORE THE GOVERNMENT.**

EXT.P9: **COPY OF THE ORDER G.O.(RT) NO.363/99/CO-OP. DTD. 27/07/1999 ISSUED BY THE GOVERNMENT.**

/TRUE COPY/

P.A.TO JUDGE

KSS

Thottathil B. Radhakrishnan, J.

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O.P.No.24495 of 1999

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Dated this the 3rd day of December, 2007.

JUDGMENT

Petitioner challenges Exts.P5 and P9 whereby, in purported exercise of authority under the Kerala Co-operative Societies Act and Rules, the official respondents have interfered with the proceedings relatable to the Industrial Disputes Act, 1947, hereinafter referred to as the "Act", for short. The different entitlements of the petitioner stood governed by settlement which have become final in terms of the labour laws. The provisions of the Act directly govern the relationship between the petitioner and the employer Co-operative Society in relation to matters covered by the settlement. Any benefit thereon are matters which are statutorily available and failure to extend such benefit would even invite prosecution under the Act. Therefore, the directions issued by the official respondents,

essentially trying to take away the benefits of those settlement cannot stand. Learned counsel for the petitioner is right in contending that if the impugned orders are given effect to, that could lead to prosecutions, since the resultant situation would be commission of offences punishable under the provisions of the labour laws. The second respondent Bank has no objection in extending the benefits that would due to the petitioner in terms of the settlement.

In the result, this writ petition is allowed quashing Exts.P5 and P9. All necessary consequences shall follow.

Thottathil B.Radhakrishnan,
Judge.

sl.

Thottathil B. Radhakrishnan, J.

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O.P.No.24495 of 1999

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JUDGMENT

Dated:3-12-2007